

Trial Audio and Video Clip Timestamps	<p style="text-align: center;">Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
--	---

<p>~10:14:30 AM to ~10:16:45 AM ----- Clip 1 "Intro" (No Audio): 00:00 to 1:02</p> <p>Clip 1 "Intro" is played with no audio then paused. Start and pause times cannot be determined.</p>	<p>(pp. 25) 9 BY MS. MORGAN-KELLY: 10 Q. And I'm going to show you a portion of the movie and I'll 11 ask you to stop me when you recognize this as the movie that you 12 watched with the defendant at his apartment. 13 MS. MORGAN-KELLY: Do we have sound? Oh, okay. 14 (Video is played at 10:15 a.m.) 15 A. I'm pretty sure this is it. 16 Q. Let's wait until we can see some of the characters, just so 17 you confirm since we've only seen the credits at this point. 18 (Video continues to play.) 19 Q. And you can let me know when you recognize it as the movie 20 that you saw. 21 (Video continues to play at 10:16 a.m.) 22 A. Ah, the image depicted is the image of Nijinsky at the end of the 23 movie. 24 Q. Okay. 25 And is this is the movie that you recall seeing with (pp. 26) 1 the defendant when you were thirteen? 2 A. Yes. 3 MS. MORGAN-KELLY: Your Honor, I'd move for the 4 admission of Government's Exhibit 8 and ask that it be published 5 to the jury. 6 THE COURT: Any objection? 7 MR. GREEN: With the objections previously stated. 8 THE COURT: Well, you may -- 9 MS. MORGAN-KELLY: And so -- 10 THE COURT: The objection is overruled, you may 11 publish it to the jury. 12 (Government Exhibit G-8 [VHS videocassette of complete movie, "Nijinsky"] received in evidence.)</p>
<p>~10:16:45 AM to ~10:18:03 AM ----- Clip 1 "Intro" (with Audio): 1:02 to 2:03</p>	<p>(pp. 26 cont.) 13 MS. MORGAN-KELLY: Let me start at the beginning and 14 I'll inform the jury that this will be a series of clips of the 15 movie, it's approximately ten minutes in total length. 16 (Video is played at 10:17 a.m., with audio.) 17 MS. MORGAN-KELLY: Your Honor, may I remove the 18 exhibits that are sitting in front of the witness? 19 THE COURT: You may. 20 (Video continues to play, with audio.) 21 BY MS. MORGAN-KELLY: 22 Q. And do you remember which character this is? 23 A. This is Nijinsky. 24 (Video continues to play at 10:18 a.m.)</p>

Trial Audio and Video Clip Timestamps	Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)
--	---

~10:18:03 AM to ~10:18:57 AM ----- Clip 1 “Intro” (with Audio): 2:03 to 2:57	No Testimony
~10:18:57 AM to ~10:19:10 AM ----- Clip 1 “Intro” (with Audio): 2:57 to 3:11	(pp. 26 cont.) 25 Q. And do you know who this character is, who is walking in (pp. 27) 1 the fur coat? 2 A. This is Diaghilev. 3 (Video continues to play at 10:19 a.m.)
~10:19:10 AM to ~ 10:21:30 AM ----- Clip 1 “Intro” (with Audio): 3:11 to 5:30	No Testimony
~10:21:30 AM to ~ 10:21:57 AM ----- ----- Clip 1 “Intro” (with Audio): 5:30 to 5:33	(pp. 27 cont.) 4 MS. MORGAN-KELLY: Could you pause the movie there, 5 please. 6 Q. Do you recognize the image that's depicted there? 7 A. I remember it from the movie, it's a Greek vase. 8 Q. And do you remember seeing anything like this anywhere 9 else? 10 A. Ah, the defendant had showed me similar ones on the 11 Internet. 12 MS. MORGAN-KELLY: Okay. You can go ahead.
~10:21:57 AM to ~ 10:22:24 AM ----- Clip 1 “Intro” (with Audio): 5:33 to 5:57 (End of Clip 1)	No Testimony
~10:22:25 AM to ~ 10:23:20 AM ----- Clip 2 “If we never met” (with Audio) 00:00 to 00:51 (End of Clip 2)	(pp. 27 cont.) 13 (Video continues to play at 10:22 a.m.) 14 BY MS. MORGAN-KELLY: 15 Q. Who is that character there? 16 A. That's Nijinsky.

Trial Audio and Video Clip Timestamps	<p style="text-align: center;">Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
--	---

<p>~10:23:20 AM to ~ 10:24:11 AM ----- Clip 3 “Fawn” [sic] (with Audio) 00:00 to 00:51</p>	<p>(pp. 27 cont.) 17 (Video continues to play at 10:23 a.m.) 18 Q. I'm going to show you another clip from the movie, do you 19 recall this portion of the movie? 20 A. Yes. 21 Q. And was this a performance of Nijinsky? 22 A. Yes. 23 Q. What performance was this? 24 A. “L'après-midi d'un faune.”</p>
<p>~10:24:11 AM to ~10:25:36 AM ----- Clip 3 “Fawn” [sic] (with Audio) 00:51 to 02:13</p>	<p style="text-align: center;">No Testimony</p>
<p>~10:25:36 AM to ~ 10:26:39 AM ----- Clip 3 “Fawn” [sic] (with Audio) 02:13 to 03:09 ----- Clip is paused, silencing the accompanying music, immediately before the witness states “to masturbate.” The clip resumes five seconds later after AUSA Morgan requests that the movie continue.</p>	<p>(pp. 27 cont.) 25 (Video continues to play at 10:25 a.m.) (pp. 28) 1 Q. Do you know whether this was a controversial performance of 2 Nijinsky? 3 MR. GREEN: Objection, your Honor. 4 A. Yes. 5 MR. GREEN: The performance occurred in 1910 (sic), how 6 could the witness know that? 7 THE COURT: Very well. Your response? 8 MS. MORGAN-KELLY: The witness is a student of ballet, 9 he can state what his understanding and recollection is of this 10 portion of history. 11 THE COURT: I'll permit it -- overruled -- I'll permit 12 it. 13 Q. Was this a particularly-controversial performance of 14 Nijinsky? 15 A. Yes. 16 Q. And why is that? 17 A. Ah, in this portion of the movie, he starts to -- to 18 masturbate. 19 Q. Okay. 20 MS. MORGAN-KELLY: Continue the movie, please. 21 (Video continues to play at 10:26 a.m.) 22 THE COURT: Let me see you at side bar. Stop the 23 movie. 24 MS. MORGAN-KELLY: Okay. Stop it.</p>

Trial Audio and Video Clip Timestamps	<p style="text-align: center;">Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
--	---

<p>~10:26:39 AM to ~ 10:27:44 AM ----- Video record obscure; unclear if video was paused or turned off entirely.</p>	<p>(pp. 28 cont.) 25 (Discussion at side bar held on the record at 10:26 (pp. 29) 1 a.m.) 2 THE COURT: Okay. 3 The showing of a minor in a movie where there's 4 masturbation, arguably it's corruption of a minor and it's a 5 crime. 6 MS. MORGAN-KELLY: Your Honor -- 7 THE COURT: Why -- why should -- shouldn't this be 8 precluded? 9 <u>MS. MORGAN-KELLY: Your Honor's order was that no --</u> 10 <u>(Ms. Morgan-Kelly is not speaking at a microphone.)</u> 11 <u>MS. MORGAN-KELLY: -- acts of sexual abuse --</u> 12 <u><Elaboration of sidebar lines 9-11: The government responds that showing the film would</u> 13 <u>not be an "act of sexual abuse," and thus would not be barred by the <i>in limine</i> order.></u> 12 THE COURT: This is bad act, though -- this is a bad 13 act. 14 MS. MORGAN-KELLY: This is an act about which the 15 defendant has been -- 16 THE COURT: This -- 17 MS. MORGAN-KELLY: -- aware of for months and did not 18 move to exclude it. 19 MR. GREEN: Because I don't -- 20 MS. MORGAN-KELLY: It shows his psychological control over 21 the victim and the psychological influence over the victim. 22 It has nothing to do with touching and they were 23 watching a movie, they were not engaging in the sexual acts. 24 This is outside the scope of the defendant's motion and outside 25 the scope of the court's order.</p>
<p>~10:27:44 AM to ~ 10:28:46 AM ----- Video still paused or stopped</p>	<p>(pp. 30) 1 MR. GREEN: May I respond, your Honor? 2 THE COURT: Go ahead. 3 MR. GREEN: If -- if they were true before we started 4 today, that's one thing. 5 But what happened fifteen minutes ago, was that we 6 came to side bar because I made an objection to any evidence 7 that there was misconduct by the defendant outside of your time 8 frame. And your Honor made it perfectly clear -- it seemed to 9 me -- what the rules were. 10 What then happened is counsel went back and 11 deliberately and intentionally elicited that conduct. Because 12 when the witness didn't give it to her, she went back and got 13 it. 14 So, what -- the way it seems to me, the Government 15 just elicited evidence that would constitute a crime and the 16 evidence was elicited after it was objected to at side bar and 17 after the Court explained the ruling.</p>

Trial Audio and Video Clip Timestamps	Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)
	<p>18 And that's my objection, Judge. It's not just that it 19 violates the rule, but that we came here and placed it on the 20 record and then, she went back and did it, anyway. 21 THE COURT: Very well. 22 MR. GAURI: Went back and did what? 23 MR. GREEN: I'm talking to one -- 24 THE COURT: Speak to me, okay, not to each other. 25 MR. GAURI: I'm sorry, your Honor, I don't understand.</p>
<p>~10:28:46 AM to ~ 10:29:37 AM ----- Video still paused or stopped</p>	<p>(pp. 31) 1 THE COURT: All right. Excuse me. 2 Don't speak to each other, speak to the Court. I'm 3 getting a little tired of your -- to your side-bar conferences. 4 If they have an objection, you're going to get an opportunity to 5 make the objection on the record. I'll give you an opportunity 6 to respond, speak to the Court not to each other. Is that 7 clear? 8 MR. GAURI: Yes, your Honor. 9 THE COURT: I think I repeated that already -- 10 MR. GAURI: Yes, your Honor. 11 THE COURT: -- so what is your position? 12 MS. MORGAN-KELLY: Our position is that this is 13 evidence that the defendant and the minor watched a movie 14 together about a public ballet 15 performance that occurred in the 1900s, and that is not a crime. 16 (Ms. Morgan-Kelly is not speaking at a microphone.) 17 MS. MORGAN-KELLY: Otherwise, any parent who took their 18 child to a R rated movie would be committing a crime. 19 MR. GREEN: This isn't R rated movie. In a -- in an R 20 movie, there's no sexual acts depicted -- 21 <u>MS. MORGAN-KELLY: I --</u> 22 <u>MR. GREEN: -- that's where --</u> 23 <u>MS. MORGAN-KELLY: -- (indiscernible) -- can look at</u> 24 <u>it and we can look at --</u> <u><Elaboration of sidebar lines 21-24: Defense counsel questioned whether the movie was</u> <u>R-rated, and the prosecutor responded that he could look at the box.></u> 25 THE COURT: All right.</p>

Trial Audio and Video Clip Timestamps	<p style="text-align: center;">Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
--	---

<p>~10:29:37 AM to ~ 10:30:16 AM ----- Video still paused or stopped</p>	<p>(pp. 32) 1 How much more do you have? 2 MS. MORGAN-KELLY: Ah, maybe, five or six minutes. 3 THE COURT: And what other -- 4 MS. MORGAN-KELLY: This one is going to be over in another 15 seconds. 5 THE COURT: -- what else is there in this movie? 6 MS. MORGAN-KELLY: There's a short clip of 7 them getting married and then there's a clip at the end just of 8 Nijinsky by himself talking. 9 THE COURT: Okay. I'll permit it. Go ahead. 10 (Concluded at side bar at 10:30 a.m.) 11 (Video continues to play at 10:30 a.m.)</p>
<p>~10:30:16 AM to ~ 10:31:17 AM ----- Clip 3 "Fawn" [sic] (with Audio) 03:09 to 04:06 (End of Clip 3)</p>	<p style="text-align: center;">No Testimony</p>
<p>~10:31:17 AM to ~ 10:33:55 AM ----- Clip 4 "Young Boys" (with Audio) 00:00 to 02:34 (End of portion of clip 4 shown at trial)</p>	<p style="text-align: center;">[next clip begins without pause or introductory comment]</p> <p style="text-align: center;">No Testimony</p>
<p>~10:33:55 AM to ~ 10:35:23 AM ----- Clip 5 "Wedding" (with Audio) 00:00 to 01:29 (End of clip 5)</p>	<p style="text-align: center;">[next clip begins without pause or introductory comment]</p> <p style="text-align: center;">No Testimony</p>

Trial Audio and Video Clip Timestamps	Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)
<p>~10:35:23 AM to ~ 10:36:29 AM ----- Clip 6 [untitled] (with Audio) 00:00 to 01:05</p> <p>(End of portion of clip 6 shown at trial)</p>	<p>[next clip begins without pause or introductory comment]</p> <p>No Testimony</p>
<p>~10:36:29 AM to ~ 10:38:16 AM ----- Clip 7 “Crazy” (with Audio) 00:00 to 01:45</p>	<p>[next clip begins without pause or introductory comment]</p> <p>No Testimony</p>
<p>~10:38:16 AM to ~ 10:38:20 AM ----- Clip 1 “Intro” (with Audio) 00:00 to 00:04</p>	<p>[clip 1 begins again, interrupting clip 7]</p> <p>No Testimony</p>
<p>~10:38:20 AM to ~ 10:38:29 AM ----- Video record obscure; potentially Clip 1 “Intro” (no Audio) 00:04 to 00:13</p>	<p>[indiscernible whispering in background]</p> <p>No Testimony</p>

<p>Trial Audio and Video Clip Timestamps</p>	<p>Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
---	--

<p>~10:38:29 AM to ~ 10:38:53 AM</p> <p>-----</p> <p>Clip 7 “Crazy” (with Audio) 00:00 to 00:20</p>	No Testimony
<p>~10:38:53 AM to ~ 10:40:45 AM</p> <p>-----</p> <p>Clip 7 “Crazy” (with Audio) 01:45 to 03:37</p>	No Testimony
<p>~10:40:45 AM to ~ 10:41:01 AM</p> <p>-----</p> <p>Video record obscure; potentially Clip 7 “Crazy” (no Audio) 3:37 to 03:53</p>	[15 second interruption] No Testimony
<p>~10:41:01 AM to ~ 10:42:03 AM</p> <p>-----</p> <p>Clip 7 “Crazy” (with Audio) 03:08 to 04:10</p>	No Testimony

<p>Trial Audio and Video Clip Timestamps</p>	<p>Transcript of Trial (Day 3 – Testimony of Roman Zavarov – 9/23/2010)</p>
---	--

<p>~10:42:03 AM onward ----- Video record obscure; potentially Clip 7 “Crazy” (no Audio) 04:10 to 04:34</p>	<p>(pp. 32 cont.) 12 (At 10:42 a.m. in open court.) 13 BY MS. MORGAN-KELLY: 14 Q. After you watched this movie with the defendant, do you 15 recall him telling you anything about the movie? 16 A. Yes. 17 Q. What? 18 A. Ah, at the time, I didn't speak English, so he explained to 19 me what was going on. 20 Q. In Russian? 21 A. Yes. 22 Q. Did he relate the movie to you in any way? 23 A. He told me -- we're, like, Diaghilev and Nijinsky. 24 Q. Did he say anything else? 25 A. Ah, he told me that Nijinsky has made a mistake to leave</p>
---	--